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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,641	06/08/2001	Robert DeHaan	0264-0002	4624
7590 10/06/2004				
Brian H. Batzli P.O. Box 2903 Minneapolis, MN 55402-0903		EXAMINER TOOMER, CEPHIA D		
		ART UNIT PAPER NUMBER 1714		
DATE MAILED: 10/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/787,641	<b>Applicant(s)</b> DEHAAN ET AL.	
	<b>Examiner</b> Cephia D. Toomer	<b>Art Unit</b> 1714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-22,26 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4-7 is/are allowed.
- 6) ☒ Claim(s) 8,9,21 and 26 is/are rejected.
- 7) ☒ Claim(s) 9-18,20,22,26 and 57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office action is in response to the amendment filed July 12, 2004 in which claims 1,4, 11, 13, 14,19-22 and 26 were amended and claim 57 was added.
2. The objection to the improper multiple dependent claims is withdrawn in view of the amendment to the claims.
3. The rejection of claim 56 under 35 USC 112, second paragraph is withdrawn in view of Applicant canceling claim 56.
4. The rejections of claims 1 under 35 USC 102 as anticipated by WO9834998, WO9714769, and Van Slyke (US 5,635,457) are withdrawn in view of the amendment to the claim.
5. The 103 rejection over Van Slyke is withdrawn in view of Applicant's arguments.
6. Claim 8 is rejected under 35 USC 102(b) as being anticipated by WO9834998 for the reasons of record.

Applicant states that claim 8 requires a composition comprising more than 50% isoparaffins wherein the isoparaffins as predominately methyl and/or ethyl and/or propyl branched. Applicant argues that WO9834998 fails to teach or suggest such a composition.

The examiner respectfully disagrees. At page 8, second paragraph WO teaches that greater than 50% by weight of the isoparaffins are mono-methyl paraffins.

7. Claims 8, 19, 21 and 26 are rejected under 35 USC 102(b) as being anticipated by WO9834998.

WO teaches diesel fuel additives prepared by Fischer-Tropsch reaction wherein the additive comprises greater than 90wt % C<sub>16</sub>-C<sub>20</sub> paraffins of which greater than 50 wt% are isoparaffins having greater than 50 wt% mono-methyl branching. The combined olefin and aromatic content is less than 0.5wt% (see abstract; page 2, lines 1-19; page 8 second paragraph).

Accordingly, WO teaching all the limitations of the claims, anticipates the claims.

Claim 1 and 4-7 are allowable. The prior art fails to teach the synthetic middle distillate cut between 0.44 mass % and 8.99 mass% monocyclic aromatic content and less than 0.01 mass% polycyclic aromatics.

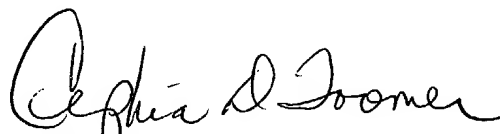
8. Claims 9-18, 20, 22, 26 and 27 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cepha D. Toomer  
Primary Examiner  
Art Unit 1714

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